

In the application of: Montgomery, Jr.
Serial No.10/657,397
Filed: September 8, 2003

RESPONSE TO NON-FINAL OFFICE ACTION OF MAY 19, 2004

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Remarks

Comments on the Objections to the Drawings

Reference numerals "22" and "35" have been added to FIG. 2A as shown on the Replacement Sheet. These additions along with the amendments to the specification at page 7, line 10 (which are reflected in the amended paragraph) address the objections to the drawings. Applicant requests the removal of these objections.

Comments on the Rejections

The patent examiner has rejected the claims under 35 USC §102(b) based upon a number of different references. In view of the fact that all of the claims that have been rejected have been cancelled and new claims 22-25 have been submitted, applicant will briefly discuss each of the references in light of the newly presented claims.

U.S. Patent No. 3,397,012 to Krekeler pertains to a cutter bit and in FIG. 18 (the figure referred to in the Office Action) discloses a sleeve. However, the detent 89A and its associated structure does not address the existence of a split portion, but is a detent that appears to engage the lug surface. See the description at Col. 13, lines 50-75. Such a detent structure would appear to not allow the sleeve depicted in FIG. 18 to contract radially inwardly so that there cannot be a split portion in the context of the claims.

U.S. Patent No. 3,865,437 to Crosby discloses a rotary mining tool that includes a retaining structure. However, it is very apparent from the disclosure (FIG. 5) of the '437 Patent that the rearward portion of the retainer as, for example, depicted in FIG. 5, does not have a "split portion having an external surface that is uniform" as recited in the claims. The rearward portion of the sleeve of '437 Patent includes protuberance 46. Thus, claims 22-25 are patentable over the '437 Patent.

U.S. Patent No. 4,084,856 to Emmerich et al. pertains to a sleeve and bit arrangement. However, like for the '437 Patent above, the rearward portion of the sleeve does not present an external surface that is uniform as required by claim 22, but includes a protuberance 84. Hence, claims 22-25 are distinguishable over the '856 Patent.

U.S. Patent No. 4,561,698 Beebe pertains to a wear protector for a rotatable cutting bit. It is clear from the disclosure of the '698 Patent that Beebe does not contain a "solid intermediate portion being between and contiguous with the enlarged diameter portion and the split portion". This is a requirement of claim 22, and hence, the '698 Patent can not render

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claims 22-25 unpatentable. U.S. Patent No. 4,844,550 to Beebe does not negatively impact upon the patentability of claims 22-25 for reasons similar to those advanced with respect to the Beebe '698 Patent.

U.S. Patent No. 4,921,310 to Hedlund et al. pertains to a rotatable cutting tool that includes a retainer. However, the '310 Patent discloses a retainer that does not have a "solid intermediate portion being between and contiguous with the enlarged diameter portion and the split portion". Hence, the claims 22-25 are patentably distinguishable over the '310 Patent. U.S. Patent No. 5,303,984 to Ojanen does not negatively impact upon the patentability of claims 22-25 for reasons similar in advanced in support of the argument against the '310 Patent.

U.S. Patent No. 5,392,870 to Clapham et al. pertains to a mineral cutter tooling system that includes a sleeve (8). However, this sleeve does not include a solid enlarged diameter portion adjacent to the axial forward end thereof as recited in the claims. Thus, the '870 Patent does not render claims 22-25 unpatentable.

U.S. Patent No. 6,371,567 to Sollami pertains to a bit holder. It is apparent from the disclosure of the '567 Patent that the patent does not address the feature that the split portion has "an external surface that is uniform" wherein the diameter of the external surface of the split surface is equal to the diameter to the surface of the intermediate portion. In this regard, it should be appreciated that element 68 in the '567 Patent appears to be tapered as shown by angle "t" in FIG. 3.

Conclusion

Applicant submits that new claims 22-25 are patentably distinct over the references that have been previously applied in this prosecution.

Applicant respectfully submits the prompt issuance of a Notice of Allowance and Notice of Issue Fee Due. If the Examiner believes that there is allowable subject matter but

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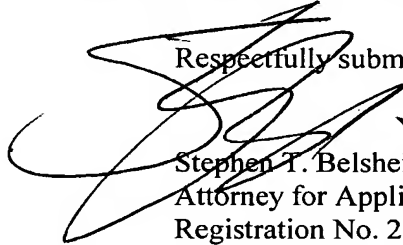
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that would require amendments to the claim, the Examiner is respectfully urged to contact the undersigned at 1-615-662-0100 or Mr. Matthew W. Smith, Esq. at 724-539-3848.

Respectfully submitted,



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Steve/K1775DIV ResponseNon-Final OA-001(08-2004)